

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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In the Matter of

Amendment of the Commission's Rules  
to Establish Rules and Policies

Pertaining to a Mobile Satellite

Service in the 1610-1626.5/

2483.5-2500 MHz Frequency Bands

CC Docket No. 92-166

AMSC SUBSIDIARY CORPORATION

PETITION FOR RECONSIDERATION

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November 21, 1994

## **SUMMARY**

This Petition for Reconsideration addresses both the fundamental issue of opening access to the 1.6/2.4 GHz bands to AMSC's domestic GSO system and various issues of how the Commission should proceed with the licensing of non-GSO applicants, since AMSC recently filed a conforming amendment with its own technical proposal for a non-GSO system.

As to the first issue, AMSC urges the Commission to reconsider its decision to limit the licensing of this spectrum to non-GSO systems, and instead permit AMSC to access at least a portion of the bands as part of AMSC's domestic GSO system. AMSC is the first to propose the allocation of this spectrum to MSS and has a long-standing interest in using the bands to expand the capacity of its domestic system. AMSC has shown that it can access these bands efficiently and without needing to overcome many of the hurdles (such as access to large amounts of feeder-link spectrum worldwide) that still face the non-GSO applicants. Thus, AMSC has demonstrated that an authorization for its domestic system will permit the Commission to "hedge its bets" that the bands will be put to good use in the near future.

As to the processing of the non-GSO systems, AMSC urges the Commission to reverse its decision that there is adequate capacity for five of the proposed systems to share the band, but inadequate capacity for all six system applicants. In fact, the record shows that such sharing is possible with the use of Code Division Multiple Access by five of the systems.

Finally, the Commission should clarify the rights of those applicants for the bands that have deferred any showing of their financial qualifications to construct a non-GSO system. AMSC is not opposed to the early licensing of qualified applicants or to those

licensees beginning construction of their systems prior to the licensing of others. Those licenses, however, must be conditioned on sharing spectrum with later-qualified licensees, which will have demonstrated their full qualifications in a manner which the Commission itself recognizes may be as timely as is reasonable to require.

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**PETITION FOR RECONSIDERATION**

AMSC Subsidiary Corporation ("AMSC"), pursuant to Section 1.429 of the Commission's Rules, hereby petitions for reconsideration of the Commission's Report and Order in the above-referenced docket.<sup>1/</sup> AMSC urges the Commission to reconsider its decision to limit the licensing of this spectrum to non-geostationary orbit ("non-GSO") Mobile Satellite Service ("MSS") systems, and instead permit AMSC to access at least a portion of the bands as part of AMSC's domestic geostationary orbit ("GSO") MSS system.<sup>2/</sup> AMSC also urges the Commission to reverse its decision that there is adequate

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<sup>1/</sup> FCC 94-261 (October 14, 1994). 59 Fed. Reg. 53294 (October 21, 1994). As a participant in this rulemaking proceeding and an applicant for the subject frequencies, AMSC has standing to file this Petition.

<sup>2/</sup> AMSC initially applied to use these bands with geostationary satellites. Application of AMSC, FCC File Nos. 15/16-DSS-MP-91 (June 3, 1991). Pursuant to the procedures set forth in the Report and Order, however, on November 16, 1994 AMSC filed an amendment to its initial application to bring AMSC's proposed use of this spectrum into conformity with the Commission's rules and policies regarding the non-GSO use of the band, thus showing its interest in remaining in the current processing group for the frequency bands at issue here. At the same time, AMSC noted its continued interest in trying to convince the Commission to permit AMSC to access at least a portion of the bands as part of its domestic geostationary system. This Petition for Reconsideration addresses both the fundamental issue of opening access to AMSC's geostationary system and the issue of how the Commission should proceed with the licensing of non-GSO applicants, of which AMSC is now one.

capacity for five of the proposed systems to share the band, but inadequate capacity for all six system applicants. The Commission also should clarify the rights of those applicants for the bands that have deferred any showing of their financial qualifications to construct a non-GSO system.

### **Background**

AMSC is licensed by the Commission to construct and operate the U.S. MSS system in the 1544-1559/1645.5-1660.5 MHz bands.<sup>3/</sup> Development of the \$650 million GSO system is well underway, with launch of the first satellite (AMSC-1) scheduled for March 1995, and the system should be fully operational by this summer.<sup>4/</sup> With the launch of its first satellite, AMSC will be fulfilling its promise and the promise of a spectrum allocation proceeding begun by the Commission in 1982 to provide for the first time truly nationwide two-way mobile communications service to even the most rural and remote parts of the United States.

AMSC filed an application in 1991 to add the bands at issue in this proceeding to AMSC-2 and AMSC-3, two GSO satellites that are authorized as part of AMSC's domestic MSS system. Due to the difficulties of international frequency coordination and the anticipated high demand for the services of AMSC's domestic system, AMSC has been

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<sup>3/</sup> See Memorandum Opinion, Order and Authorization, 4 FCC Rcd 6041 (1989); Final Decision on Remand, 7 FCC Rcd 266 (1992), aff'd sub nom. Aeronautical Radio, Inc. v. FCC, 983 F.2d 275 (1993); Memorandum Opinion and Order, 8 FCC Rcd 4040 (1993).

<sup>4/</sup> Investment in AMSC's system has been largely in the form of equity from the principal shareholders, subsidiaries of GM Hughes Electronics Corp., AT&T Corp., Singapore Telecommunications, Ltd., and Mobile Telecommunications Technologies Corp. and an Initial Public Offering completed in 1993 which raised \$178 in public investment.

concerned that its domestic MSS system will have insufficient capacity for full development.<sup>5/</sup> This concern, and the fact that AMSC can add the 1.6/2.4 GHz bands to its next satellites for a relatively inexpensive \$30 million, prompted AMSC to urge the Commission to authorize AMSC to use at least a portion of the 1.6/2.4 GHz bands for its domestic geostationary MSS system.<sup>6/</sup> In contrast, non-GSO systems that propose to operate exclusively in these bands require upwards of \$3 billion in capital investment and, even after the Commission's rulemakings, face substantial uncertainty about their access to hundreds of megahertz of feeder-link spectrum and the need to drastically increase the internationally-prescribed power limits in the 2.4 GHz mobile downlink band.

Of critical importance to AMSC's proposal is the fact that AMSC can access the spectrum using CDMA modulation without precluding its use by non-geostationary systems. This fact was confirmed by a report of all the CDMA applicants, produced as part of the Negotiated Rulemaking in this proceeding.<sup>7/</sup> The Commission confirmed this finding in its allocation order.<sup>8/</sup>

In addition to the above reasons for granting AMSC's request, AMSC submitted evidence of the following comparative virtues of geostationary systems: (i) GSO technology

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<sup>5/</sup> AMSC was the first to propose the allocation of the 1.6/2.4 GHz bands to MSS. See Petition of AMSC, RM-7806 (June 3, 1991).

<sup>6/</sup> AMSC Comments, CC Docket No. 92-166 (May 5, 1994); AMSC Reply Comments, CC Docket No. 92-166 (June 20, 1994)

<sup>7/</sup> AMSC Comments at 9 & n. 15 (citing Document MSS/IWG1-31 of the NRMC (February 11, 1993); Report of the MSS Above 1 GHz NRMC, e.g., Attachment 1 to Annex 1, Summary, paras. (a) and (d), and Attachment 2 to Annex 1, Tables 1.1 and 1.2).

<sup>8/</sup> Report and Order, ET Docket No. 92-28, 9 FCC Rcd 536, 539 paras. 16, 18. (1994).

better permits satellite power to be directed to areas with the greatest traffic;<sup>9/</sup> (ii) GSO systems are uniquely able to provide dispatch services over a large area;<sup>10/</sup> (iii) GSO systems are as capable of providing global service as non-GSO systems;<sup>11/</sup> (iv) GSO and non-GSO systems have equivalent time delay;<sup>12/</sup> (v) future high-power GSO systems will be capable of providing service to hand-held subscriber units, but service to such units by GSO or non-GSO systems will be extremely limited;<sup>13/</sup> (vi) non-GSO systems are uniquely troubled by shadowing problems;<sup>14/</sup> (vii) non-GSO systems have a greater risk of causing collisions, with the attendant problem of space debris.<sup>15/</sup>

Nonetheless, in the Report and Order, the Commission chose to license the 1.6/2.4 GHz bands for the primary use of non-GSO systems. The Commission discussed very briefly the issues of time delay, coverage, service to handheld transceivers, and space debris and ultimately articulated the following rationale for its decision: non-GSO systems offer a new technology that in the Commission's view has greater potential to serve more of the United States and foreign locations with smaller, handheld units.<sup>16/</sup>

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<sup>9/</sup> AMSC Comments at 21-22.

<sup>10/</sup> AMSC Comments at 22.

<sup>11/</sup> AMSC Comments at 20.

<sup>12/</sup> AMSC Comments at 27 & Tech. App. at 3-4; AMSC Reply Comments at 3 & Tech. App. at 1-2.

<sup>13/</sup> AMSC Comments at 24; Reply Comments at 3 n.1.

<sup>14/</sup> AMSC Comments at 28-29.

<sup>15/</sup> AMSC Comments at 29 & Tech. App. at 6; Reply Comments at 6-7.

<sup>16/</sup> Report and Order, para. 19. At the same time as it concluded that the primary use of the spectrum should be by non-GSO systems, it also stated that it "would consider  
(continued...)



In addition to establishing a non-GSO requirement, the Commission also addressed but did not resolve several of the key spectrum sharing issues presented by the operation of systems in the bands. The two biggest unsettled issues are feeder links and the power flux density levels permitted in the 2.4 GHz downlink band. Feeder links are an essential part of any MSS system. Power levels in the downlink band are equally important; without sufficient power, system capacity is dramatically reduced.

With respect to feeder links, the Commission concluded in the Report and Order that it will not be able to grant any unconditional licenses until it is certain that there is sufficient feeder-link spectrum for all applicants, that certain applicants may be required to make substantial changes to their system designs to accommodate whatever feeder-link frequencies ultimately may be available, and that a further processing mechanism may need to be developed at some time in the future if there is insufficient feeder-link spectrum to support all licensed systems.<sup>17/</sup> With respect to the power levels in the 2483.5-2500 MHz downlink band, the Commission rejected a change in the rules requested by the non-GSO applicants that would have facilitated operating at higher power levels, but left open the possibility that it would permit such higher power operations after further study by a task group of the ITU Radiocommunication sector.

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<sup>16/</sup>(...continued)

authorizing a GSO system in these bands upon a showing that its operations would not cause interference to or affect [non-GSO] operations." Id., para. 20. While AMSC appreciates this effort by the Commission to leave open the possibility of GSO system operations in this band, by restricting such operations to secondary status the Commission makes it impossible for AMSC to justify even the relatively small investment that is required to add the capacity to its next satellites. Secondary status would leave such a system vulnerable to the most whimsical claims of interference by even a single primary system operating in the band.

<sup>17/</sup> Report and Order, paras. 163-169.

In addressing how to process the six current applicants to use the bands, the Commission decided to require conforming technical amendments to be filed by November 16, 1994.<sup>18/</sup> At that time, applicants would be permitted to submit a showing of their financial qualifications, but would not be required to submit such a showing until January 31, 1996, since applicants reasonably might require more time for the resolution of key spectrum issues such as the availability of feeder links before being expected to make a financial commitment.<sup>19/</sup>

The Commission decided that there would be no need for a selection process among the applicants if only five applicants demonstrated their qualifications,<sup>20/</sup> but that six qualified applicants would create a situation of mutual exclusivity and that cases of mutual exclusivity would be resolved by an auction.<sup>21/</sup>

The Commission proposed to begin licensing those applicants that had established their full qualifications by the earlier deadline, granting authorizations to those applicants as early as January 31, 1995.<sup>22/</sup> The Commission assured the applicants that chose to defer

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<sup>18/</sup> Report and order, paras. 2, 58-59.

<sup>19/</sup> Report and Order, paras. 39-40. The Commission's financial qualifications test required applicants relying on internal financing to show current assets or operating income sufficient to cover system costs along with a management commitment that, absent a material change in unspecified circumstances, they are prepared to finance the project. Report and Order, paras. 28-32.

<sup>20/</sup> Report and Order, para. 41.

<sup>21/</sup> Report and Order, para. 42, 87.

<sup>22/</sup> Report and Order, para. 39. The Commission began expedited processing of this rulemaking and the applications following Senate consideration of legislation that would have mandated such action. The legislation was sponsored by Sen. Dennis DeConcini who represents Arizona, the home state for the effort by Motorola, Inc. to

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their financial showings that such a deferral "will not jeopardize their status in the current processing group," and will only result in their being given lower "priority" in processing.<sup>23/</sup> At the same time, however, the Commission warned that those deferring their financial showing might find themselves in a "mutually exclusive situation," one which, according to the Commission, presumably would be decided by an auction limited to those not yet licensed.<sup>24/</sup>

### **Discussion**

AMSC has two principal, alternative concerns with the Report and Order: (i) that the Commission permit AMSC to use at least a portion of the 1.6/2.4 GHz band to expand the capacity of its domestic MSS system and (ii) that, if AMSC instead accesses the bands with a non-GSO system, that the procedures for gaining access to the band are fair and reasonable for all potentially qualified applicants. With respect to the latter concerns, AMSC specifically seeks reconsideration of the Commission's decision that six qualified applicants create a problem of mutual exclusivity and seeks clarification that all applicants that demonstrate their financial qualifications will be entitled to their fair share of the spectrum resource.

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<sup>22/</sup>(...continued)

develop a non-GSO system. See Telecommunications Reports, August 1, 1994, p. 37. As part of its expedited procedures, the Commission also granted waivers of Section 319(d) to several of the applicants, permitting them to spend tens of millions of dollars on the construction of their systems in advance of any licensing. See FCC News Release, Report No. IN-2 (October 26, 1994).

<sup>23/</sup> Report and Order, para. 41.

<sup>24/</sup> Report and Order, paras. 42, 87 & n. 98.

**I. The Commission Should Permit AMSC to Access at Least a Portion of the 1.6/2.4 GHz Band for Its Domestic GSO System**

AMSC has presented an extensive record demonstrating the advantages of GSO MSS systems and the fallacies behind the claimed advantages of non-GSO systems. We recognize that the Commission was under unusual pressure to act quickly in this proceeding, and that the Commission properly continues to be interested in expediting service to the public. To facilitate this as much as possible, this Petition focuses on the Commission's apparent reliance on the following factors in its decision to limit these bands to non-GSO systems: (i) the novelty of non-GSO technology; (ii) its coverage capability; (iii) and its ability to provide service to handheld transceivers. The discussion below also focuses on AMSC's fundamental concern that the Commission should "hedge its bets" on non-GSO systems.

Novelty. As to the first issue, the Commission did not explain what it is that makes non-GSO technology novel. As AMSC has pointed out previously, non-GSO technology is as old as the first satellites and many satellite systems since then have used this technology, including those the Commission recently authorized in its Non-Voice, Non-Geostationary MSS proceeding.<sup>25/</sup> Moreover, it is difficult to square the Commission's interest in promoting this one technology with its general preference, repeated in the Notice of Proposed Rulemaking in this very proceeding, to avoid picking technological winners and losers.<sup>26/</sup>

Coverage. The Report and Order seems to be internally inconsistent in emphasizing the importance of coverage while at the same time requiring coverage only of those areas

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<sup>25/</sup> AMSC Comments at 26 (citing ET Docket No. 92-38).

<sup>26/</sup> Notice of Proposed Rulemaking, CC Docket No. 92-166, 9 FCC Rcd 1094, 1100 para. 11 (1994).

GSO systems cover at least as well as non-GSO systems.<sup>27/</sup> The fact is that GSO systems can provide coverage everywhere that the Commission requires and can do so more efficiently and with fewer outages than non-GSO systems.<sup>28/</sup> In fact, an Arctic expedition travelling as far north as 80 degrees North Latitude recently communicated successfully using an Inmarsat GSO satellite.<sup>29/</sup>

Handheld service. The biggest myth about non-GSO technology is that it is uniquely able to provide service to handheld transceivers. As AMSC demonstrated in its PCSAT application, the next generation of GSO MSS satellites will have sufficient power to provide service to handheld terminals.<sup>30/</sup> Of greater importance, however, than the ability to provide service to handheld terminals is the quality of that service. AMSC has demonstrated in this proceeding that service to small handheld units will have very limited utility, since the signal will not penetrate walls and will require the user essentially to stand in an open field for uninterrupted communications. The Report and Order ignored this evidence.<sup>31/</sup>

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<sup>27/</sup> Report and Order, para. 23.

<sup>28/</sup> See AMSC Comments at 21, 29 & Technical Appendix at 5-6.

<sup>29/</sup> "The Iceman Cometh," America's Network, May 1, 1994, pp. 15-16.

<sup>30/</sup> AMSC Comments at 24 & Technical Appendix at 2-3; AMSC Reply Comments at 3, n. 1. See Application of Personal Communications Satellite Corporation, FCC File Nos. 24/25-DSS-P-94 (April 7, 1994).

<sup>31/</sup> The Report and Order also mischaracterizes the record concerning the relative impact of time delay on GSO and non-GSO systems. Report and Order, para. 15. The record demonstrates that a GSO system's time delay is not much more than will be typical of non-GSO systems and that this delay will not be a problem for users. AMSC Comments at 27 & Tech. App. at 3-4; AMSC Reply Comments at 3 & Tech. App. at 1-2. Indeed, a recent study done by Inmarsat in connection with its own proposed non-GSO system, showed both that there would be a time delay of approximately 250 milliseconds and that this delay was not problematic. Mobile  
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Perhaps the most important point that AMSC has been making that the Commission did not address in its Report and Order is that permitting AMSC to access at least a portion of the bands for its domestic GSO system is good policy, permitting the Commission to "hedge its bets" that several or all of the non-GSO systems may never be built and operated. AMSC is not asking the Commission to exclude non-GSO systems from these bands. Rather, it is simply urging the Commission to preserve an opportunity for AMSC to use the bands to add much-needed capacity to its domestic GSO system, something AMSC has shown it can do at a very reasonable cost. AMSC would agree to operate using CDMA, to use feeder-link spectrum that would not be mutually exclusive with that sought by the other five applicants, and to limit its operations to the area within its GSO system footprint, so such a policy would have very limited impact on the non-GSO applicants.

The non-GSO systems still have far to go before they begin operations. None has fully in place the necessary financing for such expensive systems.<sup>32/</sup> None has the necessary landing rights for what systems that, to be viable, must have permission to operate in many foreign markets. None has essential feeder-link spectrum.<sup>33/</sup> With downlink

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<sup>31/</sup>(...continued)

Satellite News, "Inmarsat-P Affiliate Established," September 22, 1994.

The Commission also never addressed the issue of GSOs' technical advantage over non-GSOs in the ability to provide point-to-multipoint and multipoint-to-point services.

<sup>32/</sup> Since submitting their initial applications, several of the systems' cost estimates have soared. The estimates of Mobile Communications Holdings, Inc. (Ellipsat) and Loral/Qualcomm Partnership, L.P. have more than doubled. The estimate of Constellation Communications, Inc. has gone from \$292 million to \$1.7 billion.

<sup>33/</sup> As the Commission predicted in the Report and Order, the feeder-link problem has only gotten worse with the recent November 16 filings. The feeder-link demands of  
(continued...)

power levels unresolved, none of the four that propose to operate downlinks in the 2.4 GHz band have any certainty as to their system capacity. In addition, there is concern that Inmarsat will be a strong competitor, perhaps even unfairly strong.<sup>34/</sup> Finally, there are various foreign systems proposing to use the 1.6/2.4 GHz bands. In such an environment, it only makes sense for the Commission to be prepared for an alternative use of the spectrum.<sup>35/</sup>

## **II. The Commission Should Reconsider Its Conclusion That Six Systems Cannot Operate in the Bands**

The Commission's new rules create the prospect of an auction if there is mutual exclusivity among the current applicants, a situation which the Commission defines as more than five qualified applicants. In addition, the Commission's new rules appear to contemplate the dismissal of the sixth applicant if the first five are considered to be financially qualified on the basis of their November 16 showings and the sixth applicant chooses, pursuant to the Report and Order, to defer its showing until as late as January 1996. AMSC is particularly concerned with this latter consequence, since AMSC is the only one of

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<sup>33/</sup>(...continued)

the non-GSO applicants have all at least doubled since their initial applications. At this point, none proposes to use less than 200 MHz of feeder-link spectrum worldwide. This contrasts with a regional GSO system, which can operate in a two degree spacing environment and limit its use of the spectrum resource to its orbital location and its region.

<sup>34/</sup> See Petition of Motorola Satellite Communications, Inc., File No. ISP-94-001; see also Comments of Motorola, File No. ISP-94-001 (April 26, 1994).

<sup>35/</sup> In addition, on the issue of space debris, see Mobile Satellite News "Space Debris Poses Challenge for LEOs" (November 3, 1994).

the six applicants that has deferred its financial showing.<sup>36/</sup> AMSC therefore urges the Commission to reconsider this conclusion.

The Commission does not cite anything in the record for its conclusion that there is only enough spectrum for five systems. There is no basis for such a decision, particularly at this stage in the proceeding when there are so many issues yet to be resolved, including the amount of feeder-link spectrum that is available and the capacity that can be derived from the 2.4 GHz downlinks. The Majority Report of the Negotiated Rulemaking Committee demonstrated that five CDMA systems, including that of AMSC as a technical matter could share the bands. At some point there undoubtedly is a limit to the number of systems that can operate economically. That number could well be less than even five or more than six; at this point, however, it is virtually impossible for the Commission to make a rational decision as to where to draw the line.

Moreover, the present test of financial qualifications is sufficiently weak that it provides little assurance that qualified applicants in fact will complete construction and begin operating their systems. The current test permits applicants with substantial financial resources to qualify on the basis of an assurance to the Commission that they will pay for the construction and operation of the system "absent a material change in circumstances." In a proceeding such as this, in which there are so many important issues yet to be decided, such a standard gives those making the statement a giant escape clause, since those making the statement have not had to specify the present circumstances that form the basis for their "commitment" and it is inevitable that there will be "material changes in circumstances"

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<sup>36/</sup> Based on a preliminary review of the November 16 showings, AMSC believes that one or more of the applicants has not made an adequate financial showing, but that is an issue to be adjudicated later.



during the next few years. At most, all that such a statement represents is a good faith interest in going forward, certainly not a "commitment" to do so. This is borne out by the fact that none of parties making the commitments have told their shareholders that they may have to use their internal resources so extensively to finance this project -- none of the audited balance sheets or annual reports that were submitted on November 16 showed any indication that such a substantial investment might be required in the next few years, and several of the applicants have stated publicly that their plan is to secure financing by others not named in their applications.<sup>37/</sup>

Under these circumstances, it makes no sense to dismiss a sixth applicant such as AMSC which is at least as likely to build and operate a system as most if not all of the other applicants.

### **III. The Commission Should Clarify that Applicants that Demonstrate Their Financial Qualifications in the Second Round Will Have Full Rights**

In the same vein as AMSC's concern about the Commission's decision to restrict licensing to five systems, AMSC is also concerned about the Commission's apparent decision to put at a potential disadvantage applicants that defer their financial showings until January 1996.<sup>38/</sup> The Commission indicated its intent to discriminate between the two classes of

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<sup>37/</sup> See Northeast Cellular Telephone Company v. FCC, 897 F.2d 1164 (D.C. Cir. 1990) (the Commission is reversed for relying on its familiarity with a company's wealth rather than a true financial commitment in determining an applicant's financial qualifications).

<sup>38/</sup> Report and Order, para. 41. It is unclear from the Report and Order exactly how the Commission intends to proceed in the admittedly unlikely event that one or more applicants receive licenses on a priority basis and all the rest of the six applicants later establish their full qualifications. The Commission indicates in the Report and Order that it intends to conduct some kind of competitive bidding process that would be limited to the unlicensed applicants, but it is not clear how such a process could be

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applicants when it stated in the Report and Order that if there was an auction required to select among the applicants after the licensing of the first group, the auction would be held only among the second group. If AMSC demonstrates its financial qualifications by January 1996, it should not need to be concerned that the Commission will take any action that will prejudice its ability to share fully in the available spectrum.

Since all the applicants met the initial June 1991 cut-off together, they must be licensed or dismissed together. To license one set of applicants at an earlier date, to the potential prejudice of the one or more of the other applicants, is contrary to the Communications Act and principles of administrative fairness. Section 309 has long been interpreted to require simultaneous selection proceedings. Ashbacker Radio Corp. v. FCC, 326 U.S. 327 (1945). The potential for auctions does not change this requirement. The Commission may be permitted to select one or more licensees by competitive bidding, but to be fair it must include all the applicants in that process.<sup>39/</sup>

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<sup>38/</sup>(...continued)

conducted particularly among the CDMA applicants. In any event, since the Commission seems to contemplate some process that may discriminate against those qualifying as a result of a later showing, AMSC is compelled to raise its concerns in this petition.

<sup>39/</sup> It also should be obvious that there is little that the Commission can accurately gauge from the relative ability of applicants to put together a financial showing in thirty days. This is much less time than the Commission typically permits for conforming amendments and certainly not enough time for a shareholder with other substantial business interests to make a decisive judgment concerning its commitment to such a huge financial undertaking.

### Conclusion

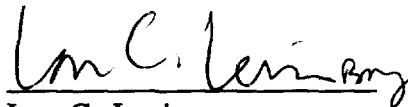
For the reasons set forth above, AMSC respectfully requests that the Commission reconsider its decision in the Report and Order, permit AMSC to access at least a portion of the bands as part of AMSC's GSO MSS system, preserve an opportunity for the licensing of all six applicants if they are fully qualified, and treat fairly all applicants, including those that make their financial showing by January 1996.

Respectfully submitted,

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